

Baker & Hostetler LLP

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*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

TRUST UNDER DEED OF SUZANNE R. MAY
DATED NOVEMBER 23, 1994, INDIVIDUALLY
and as BENEFICIARY of ESTATE OF
SUZANNE R. MAY;

ESTATE OF SUZANNE R. MAY, as
SUCCESSOR of SUZANNE R. MAY, in her

Adv. Pro. No. 10-05231 (SMB)

capacities as CREATOR and TRUSTEE of TRUST UNDER DEED OF SUZANNE R. MAY DATED NOVEMBER 23, 1994 and INDIVIDUALLY as BENEFICIARY of TRUST UNDER DEED OF SUZANNE R. MAY DATED NOVEMBER 23, 1994;

ROBERT E. MAY, in his capacity as CO-TRUSTEE of TRUST UNDER DEED OF SUZANNE R. MAY DATED NOVEMBER 23, 1994, and INDIVIDUALLY as BENEFICIARY of NTC & Co. LLP, TRUST UNDER DEED OF SUZANNE R. MAY DATED NOVEMBER 23, 1994 and ESTATE OF SUZANNE R. MAY;

JEFFREY A. MAY, in his capacity as CO-TRUSTEE of TRUST UNDER DEED OF SUZANNE R. MAY DATED NOVEMBER 23, 1994, and INDIVIDUALLY as BENEFICIARY of ESTATE OF SUZANNE R. MAY;

CHERYL M. COLEMAN, INDIVIDUALLY as BENEFICIARY of ESTATE OF SUZANNE R. MAY; and

RICHARD A. MAY, INDIVIDUALLY as BENEFICIARY of ESTATE OF SUZANNE R. MAY,

Defendants.

STIPULATION AND ORDER FOR SUBSTITUTION OF DEFENDANT

WHEREAS, on December 6, 2010, Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et. seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, filed the above-captioned avoidance action (the “Action”) in the United States Bankruptcy Court for the Southern District of New York (the “Court”) against (i) Trust Under Deed of Suzanne R. May Dated November 23, 1994, individually and as beneficiary

of Estate of Suzanne R. May; (ii) Estate of Suzanne R. May, as successor to Suzanne R. May, in her capacities as creator and trustee of Trust Under Deed of Suzanne R. May Dated November 23, 1994 and individually as beneficiary of Trust Under Deed of Suzanne R. May Dated November 23, 1994; (iii) NTC & Co. LLP, as former custodian of an Individual Retirement Account for the benefit of Robert E. May; (iv) Robert E. May, in his capacity as co-trustee of Trust Under Deed of Suzanne R. May Dated November 23, 1994, and individually as beneficiary of NTC & Co. LLP, Trust Under Deed of Suzanne R. May Dated November 23, 1994, and Estate of Suzanne R. May; (v) Jeffrey A. May, in his capacity as Co-Trustee of Trust Under Deed of Suzanne R. May Dated November 23, 1994, and individually as beneficiary of Estate of Suzanne R. May; (vi) Cheryl M. Coleman, individually as beneficiary of Estate of Suzanne R. May; and (vii) Richard A. May, individually as beneficiary of Estate of Suzanne R. May (collectively, with the exception of NTC & Co. LLP, “Defendants”) [Dkt. 1];

WHEREAS, NTC & Co. was dismissed from the Action without prejudice on May 11, 2011; and

WHEREAS, Robert E. May died during the pendency of the Action;

IT IS THEREFORE MUTUALLY AGREED AND STIPULATED, by and between the Trustee and counsel for Defendants, Estate of Robert E. May,¹ and Jeffrey A. May, in his capacity as Executor of the Estate of Robert E. May, as follows:

1. The Estate of Robert E. May and Jeffrey A. May, in his capacity as Executor of the Estate of Robert E. May, are hereby substituted into the Action in place of Robert E. May, deceased, and the complaint filed in the Action (the “Complaint”) shall be deemed so amended.

¹ *In re Estate of May, Robert E.*, in the Orphans’ Court for Montgomery County, Pennsylvania, Case No. 2013-X3446.

2. The Clerk of the Court is hereby directed to amend the caption in the Action to remove Robert E. May and substitute the Estate of Robert E. May and Jeffrey A. May, in his capacity as Executor of the Estate of Robert E. May, as reflected on Exhibit A to this stipulation.

3. Undersigned counsel for the Estate of Robert E. May and Jeffrey A. May, in his capacity as Executor of the Estate of Robert E. May, expressly represents that it has the authority to accept service of the Complaint on behalf of the Estate of Robert E. May and Jeffrey A. May, as Executor of the Estate of Robert E. May.

4. Except as expressly set forth herein, the parties to this stipulation reserve all rights and defenses they may have and agree that the entry into this stipulation shall not expand or affect any rights they do not otherwise have.

5. This stipulation may be signed by the parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic, or electronic copy of this stipulation shall be deemed an original.

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Dated: May 28, 2014
New York, New York

BAKER & HOSTETLER LLP

By: /s/ Donna A. Tobin

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*Attorneys for Plaintiff Irving H. Picard,
Trustee for the Liquidation of Bernard L.
Madoff Investment Securities LLC*

**BERNFELD, DEMATTEO, &
BERNFELD LLP**

By: /s/ Jeffrey L. Bernfeld

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*Attorneys for Defendants Trust Under Deed of
Suzanne R. May Dated November 23, 1994,
Estate of Suzanne R. May, Estate of Robert E.
May, Jeffrey A. May, Cheryl M. Coleman, and
Richard A. May*

SO ORDERED:

Dated: May 28th, 2014
New York, New York

/s/ STUART M. BERNSTEIN
HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

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ESTATE OF ROBERT E. MAY, as SUCCESSOR of ROBERT E. May, in his capacity as CO-TRUSTEE of TRUST UNDER DEED OF SUZANNE R. MAY DATED NOVEMBER 23, 1994, and INDIVIDUALLY as BENEFICIARY of NTC & Co. LLP, TRUST UNDER DEED OF SUZANNE R. MAY DATED NOVEMBER 23, 1994 and ESTATE OF SUZANNE R. MAY;

JEFFREY A. MAY, in his capacity as CO-TRUSTEE of TRUST UNDER DEED OF SUZANNE R. MAY DATED NOVEMBER 23, 1994, EXECUTOR of ESTATE OF ROBERT E. MAY, and INDIVIDUALLY as BENEFICIARY of ESTATE OF SUZANNE R. MAY;

CHERYL M. COLEMAN, INDIVIDUALLY as BENEFICIARY of ESTATE OF SUZANNE R. MAY; and

RICHARD A. MAY, INDIVIDUALLY as BENEFICIARY of ESTATE OF SUZANNE R. MAY,

Defendants.